Calendar No. 807

98TH CONGRESS
2d Session

SENATE

REPORT
98-415

NORTH CAROLINA WILDERNESS ACT OF 1984

APRIL 26 (legislative day, APRIL 24), 1984.—Ordered to be printed

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany H.R. 3960]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (H.R. 3960) to designate certain public lands in North Carolina as additions to the National Wilderness Preservation System, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

SHORT EXPLANATION

The bill, as reported by the Committtee, would designate 11 areas (totaling approximately 68,750 acres) in the national forests in the State of North Carolina as wilderness areas and as components of the National Wilderness Preservation System. The bill provides for the Secretary of Agriculture to administer the areas designated as wilderness by the bill in accordance with the provisions of the Wilderness Act, to promptly file maps and legal descriptions of the designated areas with appropriate committees of Congress, and to make the maps and descriptions available for public inspection.

Further, the bill contains language to ensure that National Forest System lands in the State of North Carolina that were studied in the Department of Agriculture's second Roadless Area Review and Evaluation and not designated as wilderness or for wilderness study by the bill are released for such nonwilderness uses as are deemed appropriate through the national forest management planning process. The bill also prohibits, unless expressly authorized by Congress, any further statewide roadless area review

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and evaluation of National Forest System lands in North Carolina for purposes of considering the wilderness suitability of such lands.

The bill would also designate 5 areas (totaling approximately 25,816 acres) in the national forests in the State of North Carolina as wilderness study areas and require the Secretary to review the suitability of these areas for wilderness preservation during the preparation of the initial land management plans. The Secretary is to report his findings to the President and the President is to submit recommendations to Congress within 3 years after enactment of the bill. Until Congress determines otherwise, the Secretary would have to manage the wilderness study areas to preserve their presently existing wilderness characteristics.

Committee Amendment

The Committee amendment to the bill strikes all after the enacting clause and inserts in lieu thereof an amendment in the nature of a substitute that is technical in nature, making clarifying and other clerical changes in the text of the bill.

Purpose and Need for Legislation

H.R. 3960 has as its purpose the designation of seven new wilderness areas and additions to four existing wilderness areas in the national forests in North Carolina. The legislation is the result of a review by the U.S. Department of Agriculture conducted during the period of 1977 through 1979 and termed the second Roadless Area Review and Evaluation (RARE II). That study examined the lands of the National Forest System nationwide and, through the final environmental impact statement issued by the Department of Agriculture in January 1979, recommended designation of certain of these lands as wilderness, including the 11 areas that would be designated by H.R. 3960. The bill would also require the Secretary of Agriculture to review five other areas in the national forests in North Carolina to determine their suitability for designation as wilderness with such review to be conducted as a part of the Forest Service's land management planning process carried out pursuant to section 6 of the National Forest Management Act of 1976 (90 Stat. 2949; 16 U.S.C. 1604).

Wilderness and Wilderness Study Descriptions

The 7 new wilderness areas which would be established total 53,590 acres. They are located in all four of the national forests in the State and stretch from the coast to the mountains. The areas include several unusual geologic features, rare vegetation species, and critical habitat for endangered wildlife species. Approximately 23 miles of the Appalachian National Scenic Trail traverse one of the areas. All of the areas in the bill were recommended as wilderness in the RARE II study. The 15,160 acres of addition to the 4 existing wilderness areas were also recommended in the RARE II study.

The 11 areas would become part of the National Wilderness Preservation System. They would be managed by the U.S. Forest Service under provisions of the Wilderness Act (78 Stat. 890; 16 U.S.C.

1131–1136). The acreage included in the 11 areas would bring the North Carolina total wilderness areas to approximately 109,000 acres, of which about 100,000 acres would be within the National Forest System. This represents about 9 percent of the total of these Federal lands in the State.

A description of the wilderness and wilderness study proposals of the bill follows:

Wilderness Designations

BIRKHEAD MOUNTAINS WILDERNESS

The proposed 4,790 acre wilderness is located in the Piedmont area of North Carolina, and represents the only opportunity in Virginia, North Carolina, and South Carolina to include a southeastern Piedmont Oak-Hickory successional forest in the National Wilderness Preservation System. The area is centrally located between the major population centers of Winston-Salem, Greensboro, Raleigh-Durham, and Charlotte and, thus, is within a 2-hour drive of a population exceeding 3 million people. It is, therefore, ideally situated for primitive recreation, scientific study, and environmental education for a significant portion of North Carolina's population.

CATFISH LAKE SOUTH WILDERNESS

This 7,600-acre proposal is 1 of 4 included in H.R. 3960 which lie in the Croatan National Forest southwest of Cape Hatteras. The terrain is very flat with the water table lying within 1 inch of the ground surface for much of the year. Vegetation consists of alternating thickets and pond pine savannahs and provides excellent wildlife habitat, including habitat for the endangered red cockaded woodpecker, the American alligator, bobcat, and black bear. Numerous unusual plant species such as pitcher plants and venus fly traps can be found in the area.

All four areas proposed for wilderness in the Croatan National Forest have been recommended for wilderness by the Forest Service to protect these outstanding examples of the "pocosin" type of ecosystem. A "pocosin" is an upland swamp system (sometimes called a "swamp on a hill", that is, a watery area on top of an impervious layer of soil). Although pocosin-type ecosystems occur from New Jersey to Northern Florida, the most extensive areas are located in North Carolina, with the Croatan National Forest lands comprising one of the largest areas of publicly owned pocosins in the world. Combined with the three other proposed wilderness areas in the Croatan National Forest, the Committee believes that wilderness designation will prove especially valuable to preserve these areas of the pocosin ecosystem in their natural state for scientific study, wildlife utilization, and limited primitive recreation.

The Committee recognizes the dangers of fire in the pocosin areas. Of course, as provided in section 4(d)(1) of the Wilderness Act, the Forest Service may take whatever actions may be necessary for the control of fire, insects, and diseases after these areas are designated as wilderness.

ELLICOTT ROCK WILDERNESS

The proposed 3,680 acres of additions to the existing Ellicott Rock Wilderness consist of rugged topography, sharp ridges, dense vegetation, and narrow valleys of the southern highland country. The Chattooga River, a component of the National Wild and Scenic River System, flows through a portion of the proposed additions.

JOYCE KILMER-SLICKROCK WILDERNESS ADDITIONS

The proposed 2,980 acres of additions (in 3 units) to the existing Joyce Kilmer-Slickrock Wilderness incorporate several miles of hiking trails and the scenic Haoe Lead Ridge. The additions generally comprise rugged country and old growth eastern hardwoods interspersed with hemlock. The two small additions near the Joyce Kilmer Picnic Area correct mapping errors of the Eastern Wilderness Act (88 Stat. 2096; 16 U.S.C. 1132 note).

LINVILLE GORGE WILDERNESS ADDITIONS

The proposed 3,400 acres of additions to the existing Linville Gorge Wilderness will help disperse primitive recreation uses of this extremely popular wilderness. The bulk of the proposed additions lie to the south of the existing wilderness and include a portion of the Linville River Gorge. Rock cliffs and the upland areas above the head or sides of the Gorge provide vistas of the Gorge with an old growth forested setting. Particularly rewarding vistas will be available from Shortoff Mountain.

MIDDLE PRONG WILDERNESS

This 7,900-acre area consists of a high ridge and deep valley which is bordered on the west by the Blue Ridge Parkway and on the east by the proposed Shining Rock Wilderness addition. The area has a native trout fishery, stands of old growth timber, balds, and numerous exposed rock areas which afford magnificent views. When combined with the existing Shining Rock Wilderness and its proposed extensions, the Middle Prong Wilderness will comprise some 34,000 acres of contiguous wilderness resource bisected by only 1 road (State Highway 215), and will provide outstanding opportunities for primitive recreation and wildlife protection.

POCOSIN WILDERNESS

At 11,000 acres, this is the largest of the 4 "pocosin" ecosystem wilderness areas proposed for the Croatan National Forest, and, hence, the largest pocosin wilderness resource in the Nation. Further discussion of the values of pocosins can be found under the Catfish Lake South proposal discussed earlier in this report.

POND PINE WILDERNESS

One-sixth of the 1,860-acre area is an existing administratively-designated natural area which consists of stands of virgin pond pine and hardwoods. The area lies between the Sheep ridge and Pocosin proposals, and follows the boundary recommended in RARE II.

SHEEP RIDGE WILDERNESS

Like the other proposed pcosin ecosystem wilderness areas, the 9,540-acre Sheep Ridge area represents a mixture of high and low pocosin vegetation. The area has some of the State's best alligator and osprey habitat, and its proximity to Long Lake provides an interesting transition from high pocosin ecosystem to that of a still water bog pond.

At the request of the Forest Service and North Carolina citizens, the Committee accepted the expansion proposed by the House to include some 3,400 acres of pocosin ecosystem lands recently acquired by the Forest Service. This will serve to extend the wilderness boudnary to the Great Lake shoreline and afford additional protection for key alligator and osprey habitat.

SHINING ROCK WILDERNESS ADDITION

This 5,100-acre proposed addition to the Shining Rock Wilderness is located on the high peaks immediately adjacent to the northern and western boundaries of the existing wilderness area. Much of the area is dominated by open heath and grassy balds that have remained virtually unchanged since fire swept the area in 1976. The open country affords magnificent views and is well suited for primitive recreation. Several mountain streams either originate within or pass through the area, and the addition provides important habitat for golden eagle, bear, bobcat, and other wildlife species.

SOUTHERN NANTAHALA WILDERNESS

The proposed 10,900-acre wilderness lies on the North Carolina-Georgia border within the rugged southern reaches of the Appalachian Mountains. The area is traversed by the Appalachian Trail and is very popular for primitive recreation by virtue of its relative proximity to Asheville, North Carolina, and Atlanta, Georgia. The North Carolina lands contain prominent landmarks, the 5,400-foot high Standing Indian Peak and Picken's Nose, as well as the headwaters of the Tallulah and Nantahala rivers. The area is also believed to be a primary habitat of the eastern cougar and contains important habitat for several other endangered or threatened plant and animal species, including the Indiana bat, southern bald eagle, and the bog turtle. Numerous springs, waterfalls, cliffs (some several hundred feet high), and other natural features enhance the area's scenic beauty.

Of particular concern to the Committee is the continuation of maintenance and proper management of the Appalachian Trail in areas where the trail passes through wilderness areas. The Committee intends that existing management practices and levels of activity on the Appalachian Trail not be subject to restrictions because of the designation as wilderness of the lands through which the trail passes.

Inasmuch as the Appalachian Trail provides a means of foot access through a wilderness area, and is primarily intended for use as a transportation corridor, the Committee believes that manage-

ment of the Appalachian Trail would not be affected by wilderness designation.

The Appalachian Trail is one of the Nation's first national scenic trails. It is a continous, marked footpath which traverses the Appalachian Mountain chain from Maine to Georgia for a distance of over 2,100 miles. Along its route the Appalachian Trail crosses 8 national forests, 6 units of the National Park System, and more than 60 public land areas in 14 States.

Approximately 23 miles of the Appalachian Trail extend through the proposed Southern Nantahala Wilderness from the North Carolina boundary with Georgia at Bly Gap to Mooney Gap. In addition, two trail shelters or lean-to's are located within this area—Carter Gap lean-to and Standing Indian lean-to.

The Committee believes that the Appalachian Trail and its related structures represent a desirable existing use which is deemed compatible with wilderness designations in the area. Specifically, the Committee requests the Secretary to continue traditional management practices for this use, including trail marking and footpath maintenance. Structure maintenance may also be permitted and desirable for the protection of the wilderness and health and safety of persons within the area. Management decisions in this regard should be developed in consultation and coordination with the Appalachian Trail Conference and other interested organizations and the public.

Wilderness Study Areas

The five areas to be designated for wilderness study were recommended for further planning in the RARE II final environmental impact statement. Those recommendations recognized that the areas had wilderness potential but also had high resource values that would be foregone if the areas were designated as wilderness. Under the bill, the areas would be studied for wilderness suitability as part of the initial national forest land management planning effort which is targeted for completion in late 1985. The bill requires these areas to be managed so as to preserve their existing wilderness characteristics during the period they are being studied and until Congress acts to designate them as wilderness areas or releases them for nonwilderness uses. The Committee notes that designation by Congress of wilderness study areas in the Eastern United States is necessary as a result of the decision in the case of *Southern Appalachian Multiple Use Council* v. *Bergland,* (No. A–C–80–1, W.D. N.C.). In that case, the U.S. District Court for the Western District of North Carolina held that the Eastern Wilderness Act did not give the Department of Agriculture authority to designate wilderness study areas, only to recommend such designations to Congress. The designation of the 5 areas in H.R. 3960 provides Congress' approval for the Forest Service's designation of the areas as further planning areas in the RARE II study.

HARPER CREEK WILDERNESS STUDY AREA

This 7,138-acre area is located just south of the proposed Lost Cove Wilderness Study Area and comprises rugged terrain with sheer rock cliffs and at least 5 major waterfalls. Harper Creek is

located where the Blue Ridge Scarp descends to the Carolina Piedmont thus furnishing steep valleys created by the high velocity drainages common to the area. Dense undergrowth and narrow valleys contribute to the opportunities for solitude and isolation.

LOST COVE WILDERNESS STUDY AREA

Lying directly north of the proposed Harper Creek Wilderness Study Area, this 5,708-acre area is distinguished by the spectacular Lost Cove Cliffs and a yellow poplar forest used for scientific study. The area is ideal bear habitat and shows little evidence of human disturbance. From the heights of Lost Cove Cliffs to the trophy native trout stream some 1,200 feet below them, the secluded cove has remained virtually untouched since it was swept by fire in 1927.

Inhabiting the Lost Cove Cliffs is a colony of endangered American ravens. The view from these cliffs encompasses not only the unspoiled valley below, but the Wilson Creek Drainage as well as the peaks of Grandfather Mountain to the north.

OVERFLOW WILDERNESS STUDY AREA

This area is comprised of 3,200 acres lying on the North Carolina-Georgia border. The Overflow Wilderness Study Area in North Carolina protects the headwaters of Overflow Creek and its undeveloped valley. The high volumes of water from the heavy rainfall of the southern escarpment of the Blue Ridge produce excellent fish habitat.

SNOWBIRD WILDERNESS STUDY AREA

Located along the North Carolina-Tennessee border, the 8,490-acre Snowbird area comprises a scenic drainage with continuously cascading waterfalls, a native trout population, and an unusually diverse and partly virgin timber forest. Grassy balds can be found at higher elevations and afford excellent views of the surrounding forested countryside.

CRAGGY MOUNTAIN WILDERNESS STUDY AREA

When combined with the 1,100-acre Craggy Mountain Wilderness Study Area designated by the Eastern Wilderness Act, the proposed Craggy Mountain Wilderness Study Area Extension makes for a total study area of 2,380 acres. The study area lies along the Blue Ridge Parkway and is known for its hemlock groves, steep slopes, and high waterfalls.

SUFFICIENCY AND RELEASE LANGUAGE

BACKGROUND

In 1924, when the U.S. Forest Service decided it should manage wilderness as one of the many uses to be made of the National Forest System, it established the Gila Wilderness in the Gila National Forest in New Mexico. The purpose was to keep some parts of the Nation's forests in the condition in which mankind had found them, both as scientific benchmarks against which civiliza-

tion's works could be compared and as recreational refuges for people who wanted to temporarily get away from the stresses of civilization. During the next 40 years, the Forest Service administratively established more of these areas, mostly in the West, from which evidence of human technology and development are substantially forbidden.

In 1964, this wilderness concept became national policy when Congress passed the Wilderness Act and established the National Wilderness Preservation System. That System incorporated the 9.1 million acres that had been set aside by the Forest Service over the previous 4 decades. Generally, the Wilderness Act specifies that within wilderness areas there will be no roads, no timber harvesting, no structures or installations, and no use of motor boats or landing of aircraft. Each wilderness area was to be an area where man was a visitor who did not remain.

The Wilderness Act gave the Forest Service 10 years to complete studies of the national forest primitive areas—areas temporarily reserved from access pending study of their suitability for wilderness designation. In addition, Congress provided that no future wilderness could be created in the national forests, except by Act of Congress. However, Congress did not preclude the management of lands within the National Forest System for primitive, roadless recreation, within the concept of multiple-use management.

As the Forest Service began its review of primitive areas within the national forests in the late 1960's to determine the suitability for wilderness designation of specific tracts, a number of problems arose in connection with established timber management plans. In many forests, after new sales were advertised, administrative protests were filed, charging that a particular sale would violate the statutory concept of multiple-use. Usually, the allegation was that the proposed sale was in an area that should be designated as wilderness or that should be devoted to unstructured recreation with no harvesting of timber. As timber sales became "tied up" in such appeals and the orderly management of the national forests disintegrated, the Forest Service instituted the first Roadless Area Review and Evaluation (RARE I) as the planning process to resolve the problems.

By 1973, RARE I had resulted in the selection of 274 wilderness study areas containing approximately 12.3 million acres. The other roadless areas in the RARE I inventory, having been considered and rejected for possible wilderness designation, were not protected as wilderness and remained in their full multiple-use status.

The National Environmental Policy Act (NEPA) became law on January 1, 1970. It required the Executive Branch, before making any major decision having a significant impact on the human environment, to prepare an assessment of the environmental impact of the proposed action. The NEPA was the basis of a lawsuit filed in 1972, as the RARE I process was nearing completion, that charged that the Forest Service must prepare environmental impact statements on roadless areas that were supposedly returned to multiple-use management. The Federal District Court for the Northern District of California agreed that the agency was subject to the decisionmaking process prescribed by NEPA, and all development activities on the roadless areas were stopped. See *Sierra Club* v. *Butz,*

Civ. No. 72-1445-SC (N.D. Cal. 1972); 3 Environmental Law Reporter 20071.

As a result of restricted sources of timber supplies, tremendous pressures were placed on the remaining national forest lands that remained open to timber harvesting. In some forests, timber sale levels dropped dramatically below the allowable cuts. In other forests, timber sale levels were maintained, but sales were concentrated on lands outside the RARE I roadless areas. In these forests, the concentration of sales at the full sales volume on a limited area produced fears that these available areas would be overcut to the detriment of land and watersheds.

It was obvious that a remedy was needed for this situation, and the Forest Service decided that a faster planning process was the answer. Thus, the second Roadless Area Review and Evaluation (RARE II) was formulated to expedite the planning process for roadless areas. RARE II began in June 1977 and was intended to survey the roadless and undeveloped areas within the National Forest System and to distinguish areas suitable for wilderness designation from those most appropriate for other uses. The areas found suitable for wilderness would be recommended for addition to the National Wilderness Preservation System through congressional action. The remaining roadless lands would be allocated to nonwilderness for uses determined under the multiple-use planning process, or allocated to further study.

On April 16, 1979, President Carter made final recommendations to Congress based on the review of 2,919 identified roadless areas encompassing 62 million acres in the national forests and national grasslands. The Administration recommended that wilderness designation be given to approximately 15.1 million acres of the original 62-million acre roadless inventory. Another 10.8 million acres of roadless lands were determined to require further planning before decisions were made on their future management. The balance of the areas, which totaled about 36 million acres, were allotted to nonwilderness, multiple-use management.

Much litigation has occurred since the RARE II recommendations. This has had a direct bearing on congressional consideration of wilderness legislation. In June 1979, the State of California challenged the RARE II wilderness and nonwilderness allocations on National Forest System lands in that State. *California* v. *Bergland,* 483 F. Supp 465 (E.D. Cal. 1980). The State and various environmental organizations which joined the lawsuit claimed that RARE II was legally flawed. On January 8, 1980, the Federal district court agreed with the State's position, finding that the environmental statement for RARE II was deficient under the provisions of the National Environmental Policy Act. The Court ruled that a more site-specific analysis of wilderness qualities was required for 46 of the areas allocated for nonwilderness. Additionally, the Court found flaws in the RARE II analysis process. As a result, the Court enjoined any development in the 46 disputed areas, pending preparation of an adequate environmental impact statement. The major points of the district court ruling were affirmed by the Ninth Circuit Court of Appeals. *California* v. *Block,* 690 F. 2d 753 (9th Cir. 1982).

The ruling by the Court of Appeals that the RARE II environmental impact statement was deficient has a significant impact on Forest Service activities. Although the decision applied specifically only to the 46 roadless areas in California, it was binding on other Federal district courts in the Ninth Circuit (comprising the States of California, Oregon, Washington, Idaho, Montana, Nevada, Arizona, Alaska, and Hawaii) and could be cited in States outside the Ninth Circuit's jurisdiction. The reasoning of the decision produces uncertainty regarding the RARE II study for other States. Management of roadless areas not designated as wilderness is subject to challenge through appeals and lawsuits. In fact, such challenges have occurred. There have been three lawsuits filed in the Northwest that rely extensively on *California* v. *Block.* In *Earth First* v. *Block* (Civil No. 83-6298-ME-RE, D. Oreg.), the United States District Court for the District of Oregon enjoined the Forest Service from taking or permitting any action which would be inconsistent with the wilderness character of a roadless area in Oregon until the requirements of *California* v. *Block* and the NEPA have been met. Similarly, in *Kettle Range Conservation Group* V. *Block* (Civil No. C-83-590-JLQ, E.D. Wash.), the Forest Service was enjoined from taking or permitting any action which will change the wilderness characteristics of four roadless areas in Washington. In December 1983, the Oregon Natural Resources Council brought suit against the Forest Service in an attempt to enjoin any activity which would impair the wilderness characteristics of approximately 2.25 million acres of roadless lands in Oregon until the requirements of NEPA have been met. That suit is pending. *Oregon Natural Resources Council* v. *Block,* Civil No. 83-1902, D. Oreg.

In February 1983, Assistant Secretary of Agriculture John B. Crowell, Jr., announced that all roadless areas studied for wilderness potential during RARE II would be subject to reevaluation. This reevaluation was to be done as a part of the national forest land management planning process then underway for 120 national forest planning units and scheduled for completion in 1985.

The desire to avoid further wilderness study and to preclude litigation directed at stopping the continuation of management activities on roadless areas led to a search for a legislative solution. Provisions appearing in this bill and termed "sufficiency" and "release" are the outcome of that search. The language has appeared in legislation designating wilderness areas in Colorado, New Mexico, Alaska, Missouri, West Virginia, and Indiana.

The status of national forest areas designated for further planning by RARE II and lying east of the 100th meridian was also placed in doubt by a case originating in North Carolina. The Eastern Wilderness Act designated certain national forest lands as wilderness and designated other lands as wilderness study areas. That Act directed the Secretary of Agriculture to review the study areas for their suitability or nonsuitability for wilderness designation and to make recommendations to the President, including recommendations for wilderness study areas. In *Southern Appalachian Multiple Use Council* v. *Bergland,* supra, the district court concluded and found, in relying on the Eastern Wilderness Act, that the Secretary had no authority to administratively designate "further planning" areas (and thereby administratively withhold any man-

agement activities in the area pending the completion of the study and determination of the area's status), but only to recommend areas to be designated as wilderness study areas. The court also found that the Secretary could manage the areas recommended so as not to impair their suitability for wilderness, pending congressional action. The decision has had an effect on the land management planning process on eastern national forests (those affected by the provisions of the Eastern Wilderness Act) insofar as the evaluation of areas for wilderness suitability. Forest plans on national forests east of the 100th meridian cannot recommend areas for wilderness designation, rather they can only recommend to Congress that such areas be studied for their wilderness suitability.

SUFFICIENCY AND JUDICIAL REVIEW OF THE RARE II ENVIRONMENTAL STATEMENT

The bill contains language relating to the sufficiency of the RARE II final environmental impact statement. As previously discussed, the need for the language arises because of a Federal district court decision in *California* v. *Bergland* supra, in which it was held that the RARE II environmental impact statement, as it applied to 46 areas considered for wilderness in California, had insufficiently considered the wilderness alternative for the areas. Activities that would impair the wilderness characteristics of the areas were enjoined until subsequent reconsideration of wilderness was completed. This action creates uncertainty over the management of some nonwilderness areas, where administrative or judicial appeals could halt some activities until adequate environmental impact statements are prepared. The Committee, in considering the bill, has reviewed the roadless areas in North Carolina. It believes that the RARE II final environmental impact statement, insofar as National Forest System lands in North Carolina are concerned, is sufficient, and, therefore, the bill provides that such environmental statement shall not be subject to judicial review.

RELEASE, MANAGEMENT, AND FUTURE WILDERNESS CONSIDERATION OF NONWILDERNESS AREAS

The RARE II process during 1977 through 1979 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976 (NFMA). That process requires the national forest land management plans to be reviewed and revised periodically to provide for a variety of uses on the land. During the review and revision process the Forest Service is required to study a broad range of potential uses and options for each national forest. NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System is only one of the many options that must be considered during the planning process for those lands which may be suited for wilderness designation. The Forest Service is presently developing the initial, or "first generation", plan for each national forest. These are the so-called "section 6" plans, and they are scheduled for completion by September 30, 1985. Upon implementation, these plans will be in effect for 10 to 15 years before being revised and updated.

One of the goals of RARE II was to consider the wilderness potential of National Forest System roadless aras. The Committee believes that, except as to those areas designated for wilderness study upon enactment of H.R. 3960, further consideration of the wilderness option during development of the initial plans for the National Forest System roadless areas in North Carolina and during the period when the initial plan is in effect would be duplicative of studies and reviews that have already been made by both the Forest Service and Congress. Therefore, the bill provides that the RARE II evaluation constitutes an adequate consideration of the suitability of these roadless areas for inclusion in the National Wilderness Preservation System and no further review by the Department of Agriculture shall be required prior to the revision of the initial land management plan for the national forest. This provision is necessary to ensure that these lands will be considered as functioning units of the national forests and has the practical effect of releasing these lands for multiple uses other than wilderness.

The NFMA provides that a national forest management plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however, provide that a forest plan "shall ordinarily be revised on a 10-year cycle or at least every 15 years." (36 CFR 219.10(g).)

By tying future review of the wilderness option to revision of initial plans, the Committee intends to make it clear, consistent with the NFMA and the Forest Service regulations, that amendments to a plan, including those that might result in a significant change in a plan, would not trigger the need for reconsideration of the wilderness option. The wilderness option does not need to be reconsidered until the Forest Service determines (1) based on a review of the lands covered by a plan, that conditions in the area covered by a plan have changed so significantly that the entire plan needs to be completely revised, or (2) that the statutory 15-year maximum life span of the plan is expiring.

A revision of a forest plan is a costly undertaking in terms of dollars and manpower and the Committee does not expect such an effort to be undertaken lightly. When required by changing conditions, the Forest Service should make every effort to address local changes in land management plans through the amendment process, reserving the revision option only for major, forest-wide changes in conditions.

For example, if a new powerline is proposed to be built across a forest, any modification of the applicable forest plan to permit the line to be built would be accomplished by an amendment, not a revision, and therefore the wilderness option would not have to be reexamined. It is only when a proposed change in management would significantly affect overall goals or uses for the entire forest that a revision would be made. An example of such a situation is the recent eruption of Mt. St. Helens. Because it affected so much of the land in the Gifford Pinchot National Forest, including the forest's overall timber harvest schedule, the necessary changes in the applicable forest plan would likely be considered a revision of the plan. In this regard, the Committee notes that in the vast majority of cases the 10- to 15-year planning cycle established by the

NFMA and in the existing regulations is short enough to accommodate most changes in circumstances without triggering more frequent plan revisions. It is highly unlikely that conditions will change so dramatically during the 10-year to 15-year planning cycle that anything more comprehensive than a plan amendment would be required.

It is not likely that primitive, semiprimitive, or motorized recreation use would change so rapidly over an entire national forest that the Forest Service or the Federal courts would be justified in concluding that the conditions in the forest are so significantly changed as to justify making a plan revision prior to the normal 10- to 15-year life span for the existing plan. For example, recreation use might increase in a specific area or areas resulting in changed conditions in the forest itself. In the judgment of the Forest Service, such changes could be met by amending the plan, as opposed to revising it. This is not to say that an increase in "demand" for recreation in a given area will automatically, in-and-of-itself, constitute a valid requirement for even a plan amendment. In addition, it is not the Committee's intent, nor, in the judgment of the Committee, the intent of any Federal statute, to "force" the Forest Service into either plan amendments or revisions as a result of changes in use patterns in the national forests.

The Chief of the Forest Service has indicated that, in his view, most plans will be in existence for 10 years before they are revised. The Committee shares this view and anticipates that plans will not be revised in advance of their anticipated maximum life span absent extraordinary circumstances. The Committee understands and expects that with the first generation plans to be completed by late 1985 in most cases, the time of revision for most plans will begin about 10 years from the date of implementation for each plan. Accordingly, the Committee expects that the wilderness option for any area will not be reexamined again until the plans have been in effect for 10 years, unless the area is specifically designated as a wilderness study area by Congress.

The Committee notes that administrative or judicial appeals may mean that some of the first generation plans will not actually be implemented until the late 1980's, in which case plan revisions would not take place until a 10-year period has elapsed from the date each plan is implemented. If the full 15 years allowed by NFMA elapses before a revision is made, the wilderness option may not in some cases be reviewed until the year 2000 or later.

The question has also arisen as to whether a revision would be triggered if the Forest Service is directed by the courts to modify or rework an initial plan, or if the Forest Service withdraws an initial plan to correct technical errors or to address issues raised by an administrative appeal. The Committee wants to make it as clear as possible that any reworking of an initial plan for such reasons would not constitute a revision of the plan and would not require the reconsideration of the wilderness option for the lands covered by the plan.

This position is based on the fact that court-ordered or administrative reworkings or modifications of a plan would most likely come about to resolve inadequacies in the preparation of the plan under the requirements of NFMA and other applicable laws. Since

the NFMA, and the implementing regulations, specify that a plan revision will occur when the Secretary finds that there has been a significant change in conditions in the forest planning unit, or at least once every 10 to 15 years, it is clear that such reworking or modification would not be a revision for at least two reasons: (1) the modification would not be the result of any significant change in conditions in the forest planning unit and (2) a plan must be properly prepared and implemented before it can be revised.

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that areas not designated for wilderness must be managed to preserve their wilderness attributes so that they may be considered for such designation in the future. This interpretation, if accepted as correct, would result in all roadless areas being kept in "de factor" wilderness status indefinitely. Such a requirement would be detrimental to the orderly management of nonwilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act of 1974.

To eliminate any possible misunderstanding on this point, the bill provides that areas not designated as wilderness or for wilderness study need not be managed for the purpose of protecting their suitability for future wilderness designation pending revision of the initial plans. The intent is that these lands be managed for multiple uses other than wilderness in accordance with the land management plan.

The Forest Service already has statutory authority to manage roadless areas for multiple uses other than wilderness. The Committee wishes to make clear, however, that study of the wilderness option in future generations of section 6 plans is required only for those lands that may be suited for wilderness designation at the time of the development of such future plans. During the lifetime of each generation of plans, then, the forest land and other resources can, in fact, be put to the uses that are authorized in the plan. In short, one plan will remain in effect until the second plan is implemented, and the forest will be managed in accordance with the plan that is in effect, even if such management may result in the land no longer being suited for wilderness.

Thus, it is likely that areas evaluated for wilderness suitability in one generation of plans may not physically qualify for wilderness consideration by the time the next generation of plans is prepared. For example, the Committee notes that many areas that were studied for wilderness in the RARE II, recommended for nonwilderness, and released administratively in April of 1979, may no longer qualify as suitable wilderness study areas as a result of approved multiple-use activities having been carried out.

Under this provision, it is the Committee's intent and understanding that the Forest Service may conduct a timber sale in a roadless area being managed for multiple-use purposes other than wilderness and not be challenged on the basis that the area will be spoiled for consideration as wilderness in a future planning cycle. Once into a second-generation plan, the Forest Service may, of course, manage a roadless area according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still qualify for

possible wilderness designation at the time of the third-generation planning process, which is likely in many cases, the wilderness option for the area would be considered at that time under the requirements of NFMA. In short, the wilderness option must be considered in each future planning generation for all of the areas in each planning unit that still possess the required wilderness attributes. There is no requirement, however, that these attributes be preserved for the purpose of maintaining the suitability of the affected areas for future evaluation as wilderness in the planning process.

In the Committee's judgment, the Forest Service is not required to manage multiple-use lands in a "de facto" wilderness manner. Of course, the Forest Service can, if it determines such action appropriate, manage lands to preserve their natural undeveloped characteristics if the applicable plan calls for such management. Likewise, the Forest Service can, if through the land management planning process it determines such action appropriate provide for other multiple uses on lands that have not been designated as wilderness or as wilderness study areas by Congress. The Forest Service should be able to manage all nonwilderness lands in the manner determined appropriate through the land management planning process.

In arriving at this position, the Committee has carefully considered and balanced the wishes and concerns of many varied interest groups involved in this issue, and wishes to emphasize the vital importance of completing and implementing the forest plans in North Carolina and ending the state of uncertainty over appropriate land management that now exists in the national forests.

NO FURTHER STATEWIDE WILDERNESS REVIEW

With regard to the possibility of the Forest Service undertaking future administrative reviews similar to RARE I and RARE II, since the National Forest Management Act of 1976 planning process is now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process, unless Congress expressly asks for additional evaluations through authorizing legislation. Therefore, H.R. 3960 prohibits the Department of Agriculture from conducting any further statewide roadless area review and evaluation of National Forest System lands in North Carolina for the purpose of determining their suitability for inclusion in the National Widerness Preservation System. The Committee does not intend that this provision prohibit the Forest Service from considering the wilderness option during a normal plan revision, should the entire State be covered by a single plan.

COMMITTEE CONSIDERATION

HEARINGS

The Committee on Agriculture, Nutrition, and Forestry held a hearing Wednesday, January 25, 1984, on H.R. 3960. The hearing was chaired by Senator Jesse Helms.

In his opening statement, Chairman Helms said the intent of Congress in the creation and development of the National Wilderness Preservation System and the inclusion of so-called release language in wilderness designation bills has been to provide stability in the system. The guiding policy of the National Forest System has been and continues to be multiple-use management, which provides for conservation, timber production, and recreation. Chairman Helms noted that wilderness legislation of recent years has resulted in a number of major lawsuits. He expressed the hope that the Committee could address H.R. 3960 and other wilderness bills in such a way as to prevent future litigation and provide for a more predictable degree of planning and management stability in the National Forest System.

Senators Thad Cochran, Pete Wilson, and Rudy Boschwitz all stated that uncertainties currently exist regarding which forest lands are to be used for timber sales contracts, wilderness, and recreation. They pointed out the importance of addressing these uncertainties and the need to strike a balance between timber use and wilderness use.

The Honorable John B. Crowell, Jr., Assistant Secretary for Natural Resources and Environment, testified on behalf of the Department of Agriculture. He stated that the Administration suports the concept of wilderness as an important use of Federal land. He stated, however, that more wilderness must be balanced with the Nation's needs for other forest resources which are limited or precluded by wilderness designations. He supported the acreage proposals in the bill, but suggested that two areas in South Carolina and Georgia, recommended for designation in RARE II, be added to the bill.

Secretary Crowell expressed concern about the release language in the bill. He said the language would provide only that the RARE II process has been satisfactory for the first or the initial cycle of plans for the national forests in North Carolina—meaning that roadless areas must again be evaluated for wilderness potential when subsequent plans are developed. This evaluation might be necessitated in just a couple of years, for example, if a change in physical conditions or litigation resulted in the need to revise the forest plan. The release language in the bill would perpetuate the current uncertainties over the national forest land base that will be available over the long-term for nonwilderness, multiple-use activities.

He said the Administration prefers permanent release language so that the Forest Service would not be required to further examine the wilderness potential or roadless areas that are not designated by the bill or are not currently in the National Wilderness Preservation System.

Secretary Crowell also suggested that section 6 of the bill relating to wilderness study areas be amended to provide protection of the wilderness value of lands that are being studied while the studies are being conducted and, thereafter, to continue such protection only for those areas subsequently recommended to Congress for designation as wilderness until such recommendation may be changed by a subsequent forest plan. He said the Department recommends enactment of the bill with those changes.

Mr. James A. Summers, Secretary of the Department of Natural Resources and Community Development, State of North Carolina, said the bill was the result of a compromise among many divergent interests and organizations in North Carolina. He said the initial planning cycle of the Forest Service for the State's national forest could be completed by 1985, but that a new wilderness review would not begin at that time. Mr. Summers testified that "the release language we advocate and that which is contained in H.R. 3960 will put this question to rest until 1995 or later." Later, in response to a question from Chairman Helms, Mr. Summers reiterated that there was no question that the intent of the legislation was that a release period of at least 10 years was involved in the language of the bill.

Next to testify was a panel consisting of Mr. Morris L. McGough, Executive Vice President, Western North Carolina Development Association; Mr. Charles Woodard, President, Southern Appalachian Multiple-Use Council; and Mr. Kenneth L. Davis, Nantahala Chapter of the Society of American Foresters.

All three witnesses testified that their organizations supported the bill, as long as it was clear that the release language provided stability for at least 10 years. Mr. McGough said the language in the bill was sufficient as long as the record made it clear to any Federal judge examining the question in the future that the congressional intent was to make the release language good for at least 10 years.

The final panel consisted of Dr. J. Robert Cox, North Carolina Chapter of the Sierra Club; Manley Fuller, National Wildlife Federation (also representing the North Carolina Wildlife Federation); and Peter D. Coppelman, Director, Forest Wilderness Programs and Counsel of The Wilderness Society. All three strongly supported the bill, and emphasized that their interpretation of the release language was that it would last through 1995. Mr. Coppelman said the interpretation of the release language as lasting only until 1986 was based on a Congressional Research Service study which, he said, "assumes that either scheduled or unscheduled revisions could trigger a new wilderness review, but we believe that a careful reading of the statute and the legislative history does not support this interpretation."

Mr. Coppelman suggested that the intent could be clarified in the report language.

COMMITTEE MARKUP

The Committee met in open session on Wednesday, March 28, 1984, and considered legislation to designate certain areas in the National Forest System in the States of North Carolina, Vermont, New Hampshire, and Wisconsin as wilderness areas, wilderness study areas, or national recreation areas.

In his opening statement, Chairman Helms noted that he had previously chaired a hearing on the North Carolina wilderness bill and that there was, as far as he was aware, agreement among interested parties regarding the areas to be designated as wilderness in that bill and in the other bills. However, the Chairman went on to point out that concerns had been raised over the release lan-

guage included in the bills because it was viewed by many as not being specific enough in establishing the timing of any further wilderness review in the future.

The Chairman emphasized his desire to get the legislation passed, but cautioned that the release language issue is a matter that involves national forest policy and that goes beyond the interests of individual States.

After expressing his appreciation for Senator Jepsen's help and cooperation in holding hearings on the wilderness bills, Senator Leahy described the development of the wilderness bill for Vermont, emphasizing that the designation of wilderness areas is not national precedent-setting legislation but is instead a State matter that affects principally the residents of the State that is involved. He noted that there has been some question raised regarding the release language, but stated that the language included in the bills had been agreed to during the course of their long development process and urged the Committee to agree to that language.

Senator Jepsen observed that the wilderness bills have an unusual amount of local application. Noting that some disagreement on the release language had arisen, he pointed out that the bills had been developed with the cooperation of a great number of people, including the Forest Service. Senator Jepsen expressed his hope that the Committee would promptly report the bills to the Senate.

Senator Melcher began his remarks by reviewing the history and development of the Eastern Wilderness Act in the early 1970's. He noted that one of the most significant decisions made during that process was to include the eastern wilderness areas under the same laws as govern wilderness areas in the rest of the country—predominantly in the west. He further noted that the national forests were, by design, incorporated into a single National Forest System.

Senator Melcher next pointed out that the release language in the bills being considered by the Committee—the so-called Colorado language—was consistent with most of the wilderness bills that had been previously enacted. However, since that language was first developed, the Forest Service has begun to recognize that it has certain problems. In particular, he pointed out that the language had originally been viewed as being consistent with the principles set forth in the National Forest Management Act of 1976—that wilderness is one of the multiple uses and therefore the wilderness values of national forest lands would have to be reconsidered as part of the planning process during each of the 10- to 15-year forest planning cycles. The problem with the language, Senator Melcher explained, is that it is not specific enough on its face to ensure the stability in the management process envisioned in the 1976 Act, and that this ambiguity can only be clarified by referring to the Committee report language that accompanied the bills when they were developed in Congress. Stating that the courts will not always look beyond the clear wording of a statute to determine the intent of Congress as expressed in Committee reports, Senator Melcher urged that the language in the bills be modified to make certain the agreed-on purpose of the release language is clear in the bills themselves—that is, that the wilderness option would be reviewed during the 10- to 15-year forest planning cycles, but not more frequently.

After an explanation of the bills, the Chief of the Forest Service, Mr. Max Peterson, was asked by the Chairman to state the Department's position on the bills pending before the Committee. Mr. Peterson began by noting that he participated in the drafting of the original Colorado release language in 1979 and, thus, was able to present the Department's current position with the benefit of 5 years of hindsight. He then explained that the release language included in the bills would result in four particular problems arising. First, as to the Vermont and New Hampshire bills, the prohibition against any further statewide roadless area review by the Forest Service would be in direct conflict with the requirements of the National Forest Management Act of 1976 that a land management plan, required to be developed at least once every 10 to 15 years, for the national forests in those States be prepared for an entire forest and include a review of the wilderness option. This conflict would result from the fact that there is only one national forest in each of those States, and, thus, the development of the required land management plan would necessarily involve the consideration of the wilderness option in connection with the entire forest in those particular States.

Second, as to the New Hampshire bill, Mr. Peterson pointed out that the release language only applies to lands that were included in the RARE II final environmental statement, but that in New Hampshire several roadless areas were excluded from RARE II. As a result, unless the release language was changed, the wilderness option for these areas would have to be reviewed in connection with the development of the initial plan.

In response to a question by Senator Leahy, Mr. Peterson indicated that the problems he had identified were technical in nature and could easily be corrected by the Committee.

The third point raised by Mr. Peterson concerned the duration of the release-from-wilderness review. He noted that the Department was not certain that a court, in deciding the matter in connection with a lawsuit, would in fact rely on the report language and interpret the bill to allow wilderness review only as a part of the 10- to 15-year planning cycle. This problem, he noted, could be eliminated by making it clear in the bills themselves that the release is for a 10- to 15-year period.

Fourth, Mr. Peterson stated that the release language was not clear as to how long the Forest Service would be released from managing as wilderness the areas that were not designated as wilderness in the bills but that might be suitable for wilderness designation at some future time.

In the discussion that followed, Mr. Peterson responded to a question about what constitutes a revision of a plan by citing a case in New Mexico where a plan was only in effect for 90 days when it was discovered to be based on erroneous information regarding timber use. The plan was withdrawn and is being redone. He noted that in that case the change to the plan would be very significant, so that it was unclear whether it involved a revision or not. Senator Melcher then noted that the Colorado release language was included in the New Mexico bill and, thus, it is possible that case could lead to a court challenge and resulting delay in im-

plementing the new plan if the Forest Service does not review the wilderness option again.

Senator Hatch then noted that the wilderness situation varied greatly among States—particularly between Eastern States and some Western States—and that as a result he was concerned that the resolution of the release language in the pending bills not be viewed as setting a national precedent. Some discussion of this point followed during which Senator Leahy expressed his agreement with the position taken by Senator Hatch.

Senator Melcher again stated that, regardless of the desire to let individual States have their option on the matter of wilderness, it must be recognized that the bills really are national in scope. He noted that, since there is no disagreement over what the Colorado language should mean, the language of the bills should be clarified to unequivocally state that meaning.

After a brief discussion, Senator Jepsen moved that the Committee report the North Carolina wilderness bill. By voice vote, the Committee agreed to report H.R. 3960 to the Senate with the recommendation that it pass.

Section-by-Section Analysis

SHORT TITLE

Section 1 provides that the bill may be cited as the "North Carolina Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

Section 2 designates certain National Forest System lands in the State of North Carolina, totaling approximately 68,750 acres, as wilderness areas and as components of the National Wilderness Preservation System as follows:

(1) approximately 4,790 acres in the Uwharrie National Forest, which are generally depicted on a map entitled "Birkhead Mountains Wilderness—Proposed", dated July 1983, and which shall be known as the Birkhead Mountains Wilderness;

(2) approximately 7,600 acres in the Croatan National Forest, which are generally depicted on a map entitled "Catfish Lake South Wilderness—Proposed", dated July 1983, and which shall be known as the Catfish Lake South Wilderness;

(3) approximately 3,680 acres in the Nantahala National Forest, which are generally depicted on a map entitled "Ellicott Rock Wilderness Additions—Proposed", dated July 1983, and which are incorporated in and deemed to be part of the Ellicott Rock Wilderness as designated by Public Law 93-622;

(4) approximately 2,980 acres in the Nantahala National Forest, which are generally depicted on a map entitled "Joyce Kilmer-Slickrock Wilderness Additions—Proposed", dated July 1983, and which are incorporated in and deemed to be part of the Joyce Kilmer Wilderness as designated by Public Law 93-622;

(5) approximately 3,400 acres in the Pisgah National Forest, which are generally depicted on a map entitled "Linville Gorge Wilderness Additions—Proposed", dated July 1983, and which

are incorporated in and deemed to be part of the Linville Gorge Wilderness as designated by the Wilderness Act;

(6) approximately 7,900 acres in the Pisgah National Forest, which are generally depicted on a map entitled "Middle Prong Wilderness—Proposed", dated July 1983, and which shall be known as the Middle Prong Wilderness;

(7) approximately 11,000 acres in the Croatan National Forest, which are generally depicted on a map entitled "Pocosin Wilderness—Proposed", dated July 1983, and which shall be known as the Pocosin Wilderness;

(8) approximately 1,860 acres in the Croatan National Forest, which are generally depicted on a map entitled "Pond Pine Wilderness—Proposed", dated July 1983, and which shall be known as the Pond Pine Wilderness;

(9) approximately 9,540 acres in the Croatan National Forest, which are generally depicted on a map entitled "Sheep Ridge Wilderness—Proposed", dated October 1983, and which shall be known as the Sheep Ridge Wilderness;

(10) approximately 5,100 acres in the Pisgah National Forest, which are generally depicted on a map entitled "Shining Rock Wilderness Addition—Proposed", dated July 1983, and which are incorporated in and deemed to be part of the Shining Rock Wilderness as designated by the Wilderness Act; and

(11) approximately 10,900 acres in the Nantahala National Forest, which are generally depicted on a map entitled "Southern Nantahala Wilderness—Proposed", dated July 1983, and which shall be known as the Southern Nantahala Wilderness.

MAPS AND DESCRIPTIONS

Section 3 provides that, as soon as practicable after enactment of the bill, the Secretary of Agriculture is required to file maps and legal descriptions of the areas designated as wilderness in the bill with the House Committees on Agriculture and on Interior and Insular Affairs and with the Senate Committee on Agriculture, Nutrition, and Forestry. In addition, this section provides that the maps and descriptions shall have the same force and effect as if included in the bill, except that correction of clerical and typographical errors may be made by the Secretary. The maps and descriptions must be on file and available for public inspection in the Office of the Chief of the Forest Service.

ADMINISTRATION OF WILDERNESS

Section 4 requires that, subject to valid existing rights, each of the areas designated as wilderness by the bill be administered by the Secretary in accordance with the provisions of the Wilderness Act, except that any reference in those provisions to the effective date of that Act would be deemed to be a reference to the date of enactment of the bill.

EFFECT OF RARE II

Section 5(a) contains congressional findings to the effect that the Department of Agriculture has completed the second Roadless

Area Review and Evaluation (RARE II) and that Congress has made its own evaluation of National Forest System roadless areas in North Carolina, including reviewing the environmental impacts associated with alternative uses of these areas.

Section 5(b) provides that Congress determines and directs, with respect to the National Forest System lands in North Carolina, that—

(1) without passing on the question of the legal sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than North Carolina, such final environmental statement shall not be subject to judicial review;

(2) to the extent such lands were reviewed in the RARE II, that review and evaluation shall be considered to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System for the purposes of the initial land management plans required by law. Also, the Department shall not be required to review the wilderness option for such lands prior to revision of the initial land management plans and in no case prior to the statutory date for completion of the initial planning cycle;

(3) to the extent such lands were reviewed in the RARE II final environmental statement and not designated for wilderness study by the bill or previous Acts of Congress, such lands need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress, the Department shall not conduct any additional statewide roadless area review and evaluation of such lands for the purpose of determining the suitability of any additional areas for inclusion in the National Wilderness Preservation System.

DESIGNATION OF WILDERNESS STUDY AREAS

Section 6(a) designates 5 wilderness study areas in North Carolina (totaling approximately 25,816 acres) and requires the Secretary to review the suitability of these areas for wilderness preservation during the preparation of the initial land management plan required by law. The designated wilderness study areas are as follows:

(1) approximately 7,138 acres in the Pisgah National Forest, which are generally depicted on a map entitled "Harper Creek Wilderness Study Area", dated July 1983, and which shall be known as the Harper Creek Wilderness Study Area;

(2 approximately 5,708 acres in the Pisgah National Forest, which are generally depicted on a map entitled "Lost Cove Wilderness Study Area", dated July 1983, and which shall be known as the Lost Cove Wilderness Study Area;

(3) approximately 3,200 acres in the Nantahala National Forest, which are generally depicted on a map entitled "Overflow Wilderness Study Area", dated July 1983, and which shall be known as the Overflow Wilderness Study Area;

(4) approximately 8,490 acres in the Nantahala National Forest, which are generally depicted on a map entitled "Snowbird Wilderness Study Area", dated July 1983, and which shall be known as the Snowbird Wilderness Study Area; and

(5) approximately 1,280 acres in the Pisgah National Forest, which are generally depicted on a map entitled "Craggy Mountain Wilderness Study Area Extension", dated July 1983, and which are incorporated into the Craggy Mountain Wilderness Study Area as designated by Public Law 93–622.

Section 6(b) requires the Sectetary to submit a report and findings regarding the review required under this section to the President, and requires the President to submit his recommendations regrding the areas specified for wilderness study in subsection (a) to Congress no later than 3 years after the date of enactment of the bill.

Section 6(c) provides that, subject to valid existing rights, the Secretary shall administer the wilderness study areas designated in this section so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System until Congress determines otherwise. In addition, this subsection provides that the entire Craggy Mountain Wilderness Study Area, including the study area designated by Public Law 93–622, shall be administered by the Secretary in accordance with this subsection until Congress determines otherwise.

Administration Views

On April 20, 1984, Chairman Helms received a report from Secretary of Agriculture John R. Block expressing the Department's support for the enactment of H.R. 3960, if amended as suggested in the report. This report, along with the January 25, 1984, testimony to the Committee presented by Assistant Secretary of Agriculture John B. Crowell, Jr., on H.R. 3960, follow:

Department of Agriculture,
Office of the Secretary,
Washington, D.C., April 18, 1984.

Hon. Jesse Helms,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: As you requested, here are our comments on H.R. 3960, as passed by the House of Representatives, a bill "To designate certain public lands in North Carolina as additions to the National Wilderness Preservation System."

The Department of Agriculture recommends the bill be enacted if amended.

H.R. 3960 would designate seven new wildernesses and four additions to existing wildernesses in the State of North Carolina for a total of 68,750 acres. All 11 areas were recommended for wilderness designation in the RARE II Final Environmental Statement filed in 1979. Section 5 of the bill provides for the legal and factual sufficiency of the RARE II Final Environmental Statement in the State of North Carolina. This section also releases those lands which were reviewed by the Department of Agriculture in RARE II, and recommended for uses other than wilderness, from further wilder-

ness consideration during the initial National Forest Land Management Plan. Section 6 of the bill would establish five wilderness study areas. These five areas were included in the RARE II inventory and recommended for further planning.

The lands proposed for wilderness designation in section 2 of the bill were recommended in the RARE II Final Environmental Impact Statement for wilderness designation. These areas include Birkhead Mountains, Catfish Lake South, Ellicott Rock Addition, Joyce Kilmer-Slickrock Additions, Linville Gorge Additions, Middle Prong, Pocosin, Pond Pine, Sheep Ridge, Shining Rock Addition, and Southern Nantahala. The Department of Agriculture continues to support designation of these areas as additions to the National Wilderness Preservation System.

The bill's declaration that the RARE II Environmental Impact Statement is legally sufficient and that adequate consideration has been given to the wilderness and nonwilderness values for all roadless areas in the State of North Carolina will save considerable effort and money that would be required to carry out additional review of these roadless areas for the Forest Land Management Plan. Unfortunately, the language in section 5 of H.R. 3960 would release areas in North Carolina from further wilderness consideration only until initial land management plans prepared under the National Forest Management Act of 1974 are revised. This language, if enacted, would perpetuate the current uncertainties over the land base that will be available over the long term for nonwilderness multiple-use activities. Local communities have a right to have some certainty over the land base which will be available to support economic activities upon which their future well-being depends. Under the language of the bill, if a change in physical conditions, litigation, or other factors result in the need to revise a Forest Plan in only 2 years, the entire roadless area review and evaluation question would need to be reexamined. This would be extremely disruptive and a waste of Forest Service time and manpower. We recommend that the release language contained in section 5 of H.R. 3960 be amended to provide permanent or long-term release of all National Forest System lands not designated as wilderness or for wilderness study.

Section 6 provides for wilderness study of the following areas—Harper Creek, Lost Cove, Overflow, Snowbird, and portions of Craggy Mountain. These areas were identified as further planning in RARE II. We recognized that these areas had some wilderness potential but also had high resource values. RARE II, therefore, determined that additional analysis would be necessary before a recommendation for either wilderness or nonwilderness designation could be made and placed these areas in further planning. Part of the Craggy Mountain Area was established as a Wilderness Study Area by Congress as part of P.L. 93–622, the Eastern Wilderness Act. This study is in final review at this time. The Forest Service has included the portions of the area recommended for further planning in RARE II in the Craggy Mountain Wilderness Study Report. We, therefore, recommend section 6(a)(5) be deleted from the bill to avoid duplication. We do not object to the other four areas being designated for wilderness study. We support the provi-

sion of section 6 which provides for wilderness review during preparation of the land management plans.

We recommend that subsection 6(b) be deleted. This subsection requires that wilderness study areas be administered to maintain their presently existing wilderness character until Congress determines otherwise. We recommend that the areas either be recommended for wilderness or released for uses other than wilderness based on the Forest land management plan and accompanying environmental impact statement. If an area or areas were to be released for uses other than wilderness, under an existing agreement with the Committee, we would provide a 90-day notice of our decision. This agreement was developed during consideration of the National Forest Management Act.

We would like to point out that in two areas, Ellicott Rock Addition and Southern Nantahala, only the portions within the State of North Carolina are to be designated. Both of these areas also include lands in other States. The Ellicott Rock Addition includes 3,100 acres in the State of Georgia and 1,900 acres in the State of South Carolina. Southern Nantahala includes an additional area in the State of Georgia. It may be desirable for the Committee to consider designating the portions in the adjoining State at the same time the portions of the areas in North Carolina are designated.

It is estimated that surveying, planning, and performing related activities necessary to implement this legislation, if amended as we suggest, would be approximately $80,000 annually over the next 5 years.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

STATEMENT OF JOHN B. CROWELL, JR., ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the committee, I am pleased to have this opportunity to present the Administration's views on H.R. 3960 that could designate additional wilderness in the State of North Carolina.

Before I discuss the Administration's position on this bill, I would point out that the Administration fully supports the concept of wilderness as an important use of Federal lands. Wilderness provides recreational, scientific, and social values. To date, this Administration has supported legislation for adding 2.9 million acres of National Forest System lands to the National Wilderness Preservation System. It is very clear, however, that more wilderness must be balanced with the Nation's needs for other forest resources which are limited or precluded by wilderness designation. This balance is brought about by a careful case-by-case evaluation of wilderness characteristics of roadless areas, the extent of already existing wilderness areas in the same region, the use and pressures on such already existing wilderness areas, the value of the re-

sources to be foregone if the area is designated wilderness, and similar considerations.

The State of North Carolina contains approximately 20 million acres of forest land (66% of the State's total land base) of which 1.2 million acres are within the National Forest System. At the current time, 31,500 acres of National Forest System lands and 8,800 acres of other Federal lands are within the National Wilderness Preservation System. H.R. 3960 would designate an additional 68,740 acres of wilderness which would bring the State total to 109,000 acres. Approximately 100,000 acres of the total would be within the National Forest System.

H.R. 3960 would designate 68,740 acres in seven new wilderness areas and four additions to existing wilderness areas in the State of North Carolina. These areas include Birkhead Mountains, Catfish Lake South, Ellicott Rock Addition, Joyce Kilmer Addition, Linville Gorge Addition, Middle Prong, Pocosin, Pond Pine, Sheep Ridge, Shinning Rock Addition, and Southern Nantahala. The Department of Agriculture continues to support designation of these areas as additions to the National Wilderness Preservation System. All 11 areas were recommended for wilderness designation by the RARE II process completed in 1979.

Mr. Chairman, we would like to point out that in two areas, Ellicott Rock Addition and Southern Nantahala, only the portions within the State of North Carolina are to be designated. Both of these areas also include lands in other States. The Ellicott Rock Addition includes 3,100 acres in the State of Georgia and 1,900 acres in the State of South Carolina. Southern Nantahala includes an additional area in the State of Georgia. It may be desirable for the Committee to consider designating the portions in the adjoining State at the same time the portions of the areas in North Carolina are designated.

Section 5 of the bill releases those roadless areas not recommended by RARE II for wilderness designation from the need to be considered for possible wilderness designation during the initial National Forest land management planning process. Section 5 of the bill also provides a declaration of legal sufficiency of the RARE II Environmental Impact Statement for North Carolina areas. This means that areas in North Carolina not recommended by RARE II for wilderness can be devoted to multiple use without threat of legal challenge on the charge that RARE II inadequately complied with the requirements of the National Environmental Policy Act.

The declaration in section 5, that the RARE II Environmental Impact Statement is legally sufficient and that adequate consideration has been given to the wilderness and nonwilderness values for all roadless areas in the State of North Carolina, will save considerable time and money that would be required to carry out additional review of these roadless areas in the Forest Land Management Plan.

The release language in the House passed version of H.R. 3960 would perpetuate the current uncertainties over the land base that will be available over the long-term for nonwilderness multiple use activities. Local communities have a right to have some certainty over the land base which will be available to support economic activities upon which their future will-being depends. Under the lan-

guage of the bill, if a change in physical conditions or litigation results in the need to revise the Forest Plan in only, for example, 2 years, the entire roadless area review and evalution question would again be raised. This would be extremely disruptive and a waste of Forest Service time and manpower.

We believe that, since Congress has considered roadless and undeveloped lands in the State of North Carolina for designation as wilderness and is in the process of enacting wilderness legislation, the remaining National Forest System lands not designated as wilderness or for study should be released in this bill from any requirement to be considered in any future National Forest plan for possible wilderness designation. Congress, of course, can at any time consider such possible additional designations, regardless of what Forest Service recommendations may have been.

The Administration, therefore, strongly recommends that the release language contained in section 5 of the bill be amended to provide permanent or at least more long-term stability to the National Forest System lands not designated by this bill or currently in the National Wilderness Preservation System. Language for accomplishing this purpose has been supplied to the Committee staff.

Section 6 of the bill would establish five wilderness study areas. These five areas were included in the RARE II inventory and were recommended at the conclusion of RARE II for further planning. Further planning areas are being studied at the current time as a part of the land management planning process mandated by the National Forest Management Act of 1976.

In the case of *Southern Appalachian Multiple Use Council* v. *Bergland,* decided in 1981 by the United States District Court for the Western District of North Carolina, the court held that when further planning areas east of the 100th meridian are studied as part of the National Forest Management Act, one of two broad decisions can be reached. The decision can be either to manage the area for multiple use purposes other than wilderness or to recommend the area to Congress for designation as a wilderness study area.

Section 6 of H.R. 3960 states that the study areas shall be managed so as to protect their wilderness values until Congress determines otherwise. Such a provision is tantamount to designating now all the study areas as wildernesses. The Administration recommends, instead, that section 6 be amended to provide protection of the wilderness values of the areas while the studies are being conducted and, thereafter, to continue such protection only for those areas subsequently recommended to Congress for designation as wilderness until such recommendation may be changed by a subsequent Forest plan. Language for the proposed amendment has been provided to the Committee.

Mr. Chairman, the Department of Agriculture recommends enactment of H.R. 3960, if sections 5 and 6 are amended as suggested.

This concludes my prepared statement. I will be happy to answer any questions you may have.

Cost Estimate

I

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that the enactment of H.R. 3960, as reported, would result in a cost to the Federal Government of approximately $80,000 per year beginning in fiscal year 1985.

II

In accordance with the Congressional Budget Act of 1974, the Congressional Budget Office prepared the following cost estimate, which is consistent with the Committee's cost estimate:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., April 13, 1984.

Hon. Jesse A. Helms,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Russell Senate Office Building, Washington, D.C.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 3960, the North Carolina Wilderness Act of 1984, as ordered reported by the Senate Committee on Agriculture, Nutrition and Forestry, March 28, 1984.

This bill adds approximately 68,750 acres of national forest system lands in North Carolina to the National Wilderness Preservation System. Based on information from the National Forest Service, we estimate that additional costs to the federal government resulting from surveying, planning and related activities associated with the wilderness designation will be approximately $80,000 per year beginning in fiscal year 1985.

According to the provisions of the National Wilderness Preservation System Act, all timber in areas designated as units of the national wilderness preservation system is removed from the timber base of the national forest in which it is located. This results in a reduction of the annual potential yield of the forest. However, the reduction in the timber base that will result from enactment of H.R. 3960 is not expected to significantly decrease federal timber receipts.

Enactment of this bill would not significantly affect the budgets of state and local governments.

Further details on this estimate can be obtained from Debbie Goldberg of our Budget Analysis Division.

Sincerely,

Eric Hanushek
(For Rudolph G. Penner).

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 3960. The bill would designate certain lands in the State of

North Carolina as components of the National Wilderness Preservation System. It would also designate certain lands in that State as wilderness study areas.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

Subject to valid existing rights, the Wilderness Act prohibits future harvesting of timber and future entry for mineral extraction on lands included in the National Wilderness Preservation System. Enactment of the bill will result in approximately 68,750 acres being placed in the National Wilderness Preservation System, and approximately 25,816 acres being designated as wilderness study areas, and thereby, will restrict uses other than wilderness on such land.

Wilderness designation will result in restricting private individuals' motorized use of public lands. Activities which have previously occurred, such as firewood gathering, motorized access for hunting and fishing, and trail bike riding, will be terminated.

A wilderness permit may be required of individuals using certain wilderness areas and, therefore, limited personal information would be collected in administering the program. It is anticipated that the impact on personal privacy would be minimal.

The bill will not result in any significant additional paperwork or recordkeeping requirements.

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